

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

BRIAN BOWEN, II,)	
)	
Plaintiff,)	
)	
v.)	
)	Civil Action No.: 3:18-cv-03118-JFA
ADIDAS AMERICA, INC.; JAMES)	
GATTO; MERL CODE; CHRISTIAN)	
DAWKINS; MUNISH SOOD;)	
THOMAS GASSNOLA; and)	
CHRISTOPHER RIVERS,)	
)	
Defendants.)	
_____)	

**DEFENDANT CHRISTOPHER RIVERS’S MOTION TO DISMISS PLAINTIFF’S
COMPLAINT**

Pursuant to Federal Rule of Civil Procedure 12(b)(6), Defendant Christopher Rivers (“Rivers”) hereby moves this Court to dismiss Plaintiff’s claims against him with prejudice (the “Motion”). This Motion is supported by Rivers’s accompanying Memorandum of Law in Support of His Motion to Dismiss Plaintiff’s Complaint (the “Rivers Brief”), adidas’s Memorandum of Law in Support of Its Motion to Dismiss (the “adidas Brief”), and any other authorities that he may present prior to or during a hearing on this Motion.

The bases for this Motion are (1) the five arguments from the adidas Brief described below that Rivers incorporates into his Rivers Brief and (2) two additional arguments specific to Rivers detailed in the Rivers Brief. More specifically, because Plaintiff’s theory of liability against Rivers in Counts I and II of the Complaint is the same as Plaintiff’s theory against Defendant adidas America, Inc. (“adidas”), Rivers joins in adidas’s Motion to Dismiss as to the

following five arguments described in more detail in the adidas Brief and incorporated by reference in the Rivers Brief:

1. Plaintiff lacks standing to bring a RICO claim because the injuries Plaintiff alleges are speculative expectation damages or intangible harms that cannot be collected under RICO;
2. Plaintiff lacks standing to bring a RICO claim because the alleged RICO violations did not proximately cause his injuries;
3. Plaintiff's father's knowledge and participation in the scheme as a conspirator is imputed to Plaintiff under traditional agency principles and therefore Plaintiff's claims are barred by the doctrine of *in pari delicto*;
4. Plaintiff fails to plausibly allege an association-in-fact enterprise distinct from adidas and its employees and agents and therefore does not adequately plead a distinct RICO enterprise;
5. Plaintiff fails to adequately plead a RICO conspiracy because he has not adequately pleaded a substantive RICO claim and only makes a conclusory allegation that Defendants agreed to commit a substantive offense.

Additionally, even if this court denies Rivers's Motion based on those five arguments—which it should not—this Court should dismiss the claims against Rivers specifically for the following two additional reasons:

6. Plaintiff fails to adequately plead that Rivers committed two predicate acts of racketeering and therefore fails to show that Rivers engaged in a “pattern of racketeering”; and
7. Even if Plaintiff could allege two predicate acts of racketeering against Rivers, the predicate acts alleged in the Complaint that have any tie to Rivers were not a proximate cause of Plaintiff's injuries, and therefore Plaintiff lacks standing to pursue his claims.

Accordingly, for the reasons stated in the adidas Brief and the reasons exclusive to Rivers stated in the Rivers Brief, the claims against Rivers should be dismissed with prejudice for failure to state a claim for which relief can be granted.

Respectfully submitted,

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